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MEMO ENDORSED

April 16, 2020

VIA ECF

Chambers
Honorable Judge Valerie E. Caproni
Southern District of New York
40 Foley Square
New York, NY 10007

USDC SDNY
DOCUMENT
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DATE FILED: 4/16/2020

Re: *Robles v Holy See et al.*
Docket No. 20-cv-0216-VEC

20-cv-2106

Dear Judge Caproni:

We write as Coordinating and Defense Counsel for the Archdiocese of New York and Archbishop Timothy Cardinal Dolan with respect to the above matter overseeing the numerous lawsuits that have been filed in New York State courts under New York's Child Victims Act, CPLR 214-g.ⁱ We understand that Plaintiff Thomas Alberto Robles has filed the above-referenced action against the Archdiocese, the Archbishop and Our Lady of Mount Carmel, a parish within the Archdiocese, and other defendants. We understand that Plaintiff filed this action in this Court premised on diversity jurisdiction and seeking recovery under New York State statutory law, namely CPLR 214-g, and general tort law. We write for the limited purpose of responding to this Court's Notice of Initial Pretrial Conference without waiving any of our clients' jurisdictional or other defenses.

To our knowledge, the Archdiocese and the Archbishop have not been served with the Complaint properly, and our clients were not aware of this matter until yesterday, April 15th. Immediately upon receiving notice of this matter our clients contacted our firm and we reviewed the Court's docket finding the Court's Notice of Initial Pretrial Conference, which was "So Ordered" on March 12, 2020. Docket No. 18. To our knowledge, Plaintiff has failed to serve this Notice on our clients despite the Order directing them to do so. In reviewing the Notice of Initial Pretrial Conference we learned that the Court has scheduled an in-person conference for April 24, 2020, and directed the parties to provide a writing by today, April 16th, discussing the claims, anticipated discovery, and motions. We understand that the courthouse where Your Honor's Chambers and courtroom are located is closed pursuant to the COVID-19 protocols implemented by the Southern District of New York, and that the Moynihan Courthouse is only

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open for emergency matters, and we seek the Court's guidance with respect to scheduled appearances.

Further, we are unaware of whether the Society of the Catholic Apostolate a/k/a Pallottines or the Holy See have been served with the Complaint. Of course we recognize the coronavirus' unprecedented impact on Italy and cannot predict how that may affect attempts of service on the Holy See. However, the Holy See's response to the Complaint is essential because although Plaintiff chose to file this matter in this Court based on diversity jurisdiction based on the location of the Holy See, Plaintiff admits in his Complaint that he and our clients, the Archdiocese and Archbishop of New York, are all New York State residents, thus demonstrating Plaintiff's failure to establish complete diversity subject matter jurisdiction. We also note that Plaintiff has not alleged any federal question jurisdiction, claiming that the Holy See may not rely upon immunity under the Foreign Sovereign Immunity Act.

Accordingly, based on the closure of the courthouse, the closure of our clients' offices and the resultant inability to access documents and individuals to assist in preparing a response to the Complaint, and the late notice of this Court's March 12th Notice, our clients respectfully request an adjournment of the Initial Pretrial Conference. In addition, based on Plaintiff's failure to properly serve our clients with the Complaint and failure to establish complete diversity, our clients are also considering a motion pursuant to Rule 12 in lieu of an answer in this matter, and seek additional time to meet and confer with Plaintiff's counsel and the other named parties to resolve this issue without Court intervention, if possible.

We hope that such a process may conserve this Court's resources. Alternatively, we request a telephone conference to discuss this application at the Court's convenience.

Application GRANTED. The IPTC scheduled for April 24, 2020, is adjourned *sine die*. No later than **May 1, 2020**, Plaintiff must show cause why this Court has subject matter jurisdiction over this case. Defendant may respond to Plaintiff's submission no later than **May 15, 2020**.

SO ORDERED.

Via ECF to all appearing parties.



HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE

Respectfully submitted,

Joanne Filiberti

Joanne Filiberti
Peter James Johnson, Jr.
Leahey & Johnson, P.C.

4/16/2020

ⁱ We note that this suit appears to be related to a matter that was originally commenced in Supreme Court, New York County, entitled *T.A.R. –against– Holy See (State of Holy See City; The Holy See), Archdiocese of New York, Our Lady of Mount Carmel Catholic Church, The Society of the Catholic Apostolate aka Pallottines and Does 1-5 whose identities are unknown to Plaintiff*, under Index No. 950147/2019, in September 2019, and which is still marked active on that court's docket although counsel for Plaintiff filed a notice of voluntarily discontinuance in February 2020.